

UNITED STATE DISTRICT COURT  
For The  
DISTRICT OF MASSACHUSETTS

Luis F. Rivera Jr.  
Petitioner,

v.  
DAVID NOLAN  
Respondent.

★  
★  
★ NO. 04-12717-RCL  
★  
★  
★  
★

Affidavit of Luis F. Rivera Jr

I Luis Rivera deposes and state That Everything  
IN this Affidavit is TRUE to the best of my  
knowledge.

1) ON MAY 19, 2005. I WAS Moved to MCI Norfolk from  
MCI CJ. where I met up with my co-defendant  
Raymond Rebello's

2) I Learn that Mr Rebello was granted A Hearing  
IN the Superior court by Judge Constance M. Sweeney.

3) I then proceed to get information from his hearing  
about the bail Deal of Mr Pacheco And his Dismissal  
of murder charges that were part of his deal,  
(see ENCLOSED).

4) I Also Find out that Justice Francis X. Spina  
was the Judge who Dismiss Mr Pacheco Murder charges  
with completed the Deal.  
(See ENCLOSED).

5) I Find this to be Bias in the Part of Justice Spina  
Proceed next

because Justice Martha B. Sosman was my original gatekeeper in the SJC.  
(See ENCLOSED)

6) Justice Sosman gave me Ruling on August 5, 2004. and on September 14 2004.  
(See ENCLOSED)

7) Then out of No where Justice Spina denied my gatekeeper Petitions, saying that its Not New AND Substantial, when my co-defendant has A different Judge granting him A Hearing in the SAME trial Court.  
(See ENCLOSED)

8) How CAN I not feel BIAS by this Judge who has he's ~~hand~~ hand all over this case from the beginning; I think he should of excuse himself for the ~~purpose~~ purpose of Justice.

9) I believe That I have been prejudice with All of thee Above.

Sign and Sworn under <sup>PAIN AND</sup> ~~the~~ Penalty of Perjury

Respectfully submitted.

Luis F. Rivera Jr

Luis F. Rivera Jr



The Commonwealth of Massachusetts  
SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
ONE BEACON STREET, 4TH FLOOR  
BOSTON, MASSACHUSETTS 02108  
WWW.SJCCOUNTYCLERK.COM

MAURA S. DOYLE  
CLERK

CASE INFO (617) 557-1100  
BAR INFO (617) 557-1050  
FAX (617) 557-1033

~~Luis Rivera~~  
MCI-Cedar Junction  
P.O. Box 100  
S. Walpole, MA 02071

August 31, 2004

ASSISTANT CLERKS

LILLIAN C. ANDRUSZKIEWICZ (617) 557-1184  
GEORGE E. SLYVA (617) 557-1185  
ERIC B. WETZEL (617) 557-1186  
FAX (617) 557-1033

RE: No. SJ-2004-0338

COMMONWEALTH  
vs.  
LUIS RIVERA

Hampden Superior Court  
No. HDCR1991-02247

NOTICE OF DOCKET ENTRY

You are hereby notified that on August 5, 2004, the following  
was entered on the docket of the above referenced case:

MOTION For Assignment Of Counsel With Leave To Late File For Good Cause, filed by Luis Rivera, pro se. (08/31/04 MOTION for Assignment of Counsel with Leave to Late File for Good Cause is DENIED WITHOUT HEARING. By the Court. (Sosman, J.))

A handwritten signature in black ink, appearing to read "Maura S. Doyle".

Maura S. Doyle, Clerk

To: Luis Rivera  
Jane Davidson Montori, Assistant District Attorney  
Hampden Superior Court Dept.

\*\*\*\*\*  
 \*\*\* THIS CASE CONTAINS IMPOUNDED MATERIAL \*\*\*  
 \*\*\*\*\*

09/13/04

COMMONWEALTH OF MASSACHUSETTS  
 SUPREME JUDICIAL COURT  
 FOR SUFFOLK COUNTY

Page 1

SJ-2004-0338

COMMONWEALTH vs. LUIS RIVERA

ENTRY DATE 08/05/04	CASE STATUS Active: Case Filed
STATUS DATE 08/05/04	NATURE Gatekeeper c 278 s 33E
JUSTICE	SUB NATURE Mot for New Trial
PET ROLE L CT defendant	TC DISPOSITION Motion denied
SJ DISPO DATE	SJ DISPOSITION
LEAD CASE	RELATION
TRIAL JUDGE Ford D.A.	TRIAL CT Hampden Superior Court
TC ENTRY DATE	TC RULING DATE 11/20/03
TC DOCKET NO HDCR1991-0224	FC/OE DKT NO SJC-06734
	CLERK LCA
	PUBLIC p

Luis Rivera  
 Pro Se Defendant/Petitioner  
 MCI-Cedar Junction  
 P.O. Box 100  
 S. Walpole MA 02071  
 Active 08/05/04 Notify

Commonwealth  
 Plaintiff/Respondent  
 Active 08/05/04

Jane Davidson Montori  
 Assistant District Attorney  
 Office of the District Attorney/Hampde  
 Chief, Appellate Division  
 Hall of Justice, 50 State Street  
 Springfield MA 01102-0559  
 Phone: 413-452-1103  
 Fax: 413-781-4745  
 546543 Active 08/05/04 Notify

Hampden Superior Court Dept.  
 (Lower Court: criminal)  
 Clerk for Criminal Business  
 50 State Street - P.O. Box 559  
 Springfield MA 01102  
 Phone: 413-735-6035 FAX: 413-737-1611  
 Active 08/05/04 Notify

\* \* \* D O C K E T \* \* \*

PAPER DATE ENTRY

08/05/04 Case entered.

1.0 08/05/04 Affidavit Of Indigency And Request For Waiver, Substitution Or  
 State Payment Of Fees And Costs filed. (IMPOUNDED PAPER)

08/05/04 Filing fee waived. (Per lca)

\*\*\*\*\*  
 \*\*\* THIS CASE CONTAINS IMPOUNDED MATERIAL \*\*\*  
 \*\*\*\*\*

09/13/04

COMMONWEALTH OF MASSACHUSETTS  
 SUPREME JUDICIAL COURT  
 FOR SUFFOLK COUNTY

Page 2

SJ-2004-0338

COMMONWEALTH vs. LUIS RIVERA

\* \* \* D O C K E T \* \* \*

PAPER	DATE	ENTRY
2.0	08/05/04	C. 278, s 33E Application For Leave To Appeal Summary Denial Of First New Trial Motion To The Full Court With Assignment Of Counsel Or To Remand For Findings And Evidentiary Hearing, filed by Luis Rivera, pro se with attachments and certificate of service.
3.0	08/05/04	MOTION For Assignment Of Counsel With Leave To Late File For Good Cause, filed by Luis Rivera, pro se. (08/31/04 MOTION for Assignment of Counsel with Leave to Late File for Good Cause is DENIED WITHOUT HEARING. By the Court. (Sosman, J.))
4.0	08/05/04	MOTION For Leave Of Court To Add To The Record Affiavit Of Francis Pabon, filed by Luis Rivera, pro se with attachment and certificate of service.
5.0	08/05/04	COPY of letter to Mr. Luis Fernando Rivera from William J. Leahy, Chief Counsel stating "...We have decided not to assign a lawyer to represent you..."
6.0	08/19/04	Letter to Maura S. Doyle, Clerk from ADA Jane Davidson Montori saying..."It is the Commonwealth's intention to oppose the defendant's petition for leave to appeal under G.L. c. 278, s. 33E and to file its opposition on or before November 1, 2004, unless directed otherwise by the Court....."
7.0	08/25/04	Defendant-Appellant's Motion for Disposition on His Motion for Assignment of Counsel filed by Luis Rivera pro se with certificate of service. (see endorsement on paper no. 3)
8.0	08/31/04	Notice to counsel/parties: regarding paper number 3 filed.
9.0	09/09/04	Letter to SJC Clerk Maura Doyle from Luis Rivera, pro se stating "... I am requesting you send me a copy of my #04-0338 docket entries...Please bring this letter to the attention of Justice Sosman in form of pro se request for reconsideration of her denial of counsel..."
09/13/04		An updated docket sheet was mailed to Mr. Luis Rivera as requested. (see paper no. 9) (ml)





The Commonwealth of Massachusetts  
SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
ONE BEACON STREET, 4TH FLOOR  
BOSTON, MASSACHUSETTS 02108  
WWW.SJCCOUNTYCLERK.COM

MAURA S. DOYLE  
CLERK

CASE INFO (617) 557-1100

BAR INFO (617) 557-1050

FACSIMILE (617) 557-1033

Luis Rivera  
MCI-Cedar Junction  
P.O. Box 100  
S. Walpole, MA 02071

ASSISTANT CLERKS

LILLIAN C. ANDRUSZKIEWICZ (617) 557-1184

GEORGE E. SLYVA (617) 557-1185

ERIC B. WETZEL (617) 557-1186

FAX (617) 557-1033

September 14, 2004

RE: No. SJ-2004-0338

COMMONWEALTH

vs.

LUIS RIVERA

Hampden Superior Court  
No. HDCR1991-02247

NOTICE OF DOCKET ENTRY

You are hereby notified that on September 14, 2004, the following was entered on the docket of the above referenced case:

MODIFIED ORDER:...."it is ORDERED that the leave to late file the application is ALLOWED without hearing." (Sosman, J.)

  
Maura S. Doyle, Clerk

To: Luis Rivera  
Jane Davidson Montori, Assistant District Attorney  
Hampden Superior Court Dept.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
No. SJ-2004-0338

Hampden Superior Court  
No. HDCR1991-02247

COMMONWEALTH

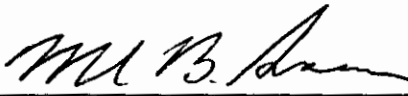
vs.

LUIS RIVERA

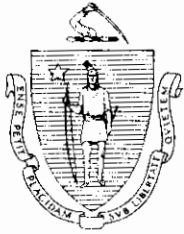
MODIFIED ORDER

A pleading entitled "Motion for assignment of counsel with leave to late file for good cause" was filed by the defendant. Thereafter the defendant filed a motion for disposition on his motion for assignment of counsel.

I denied the motion for appointment of counsel on August 31, 2004, but did not address the aspect of the motion seeking leave to late file the application for leave to appeal. Upon consideration thereof, it is ORDERED that the leave to late file the application is ALLOWED without hearing.

  
Martha B. Sosman  
Associate Justice

Entered: September 14, 2004



The Commonwealth of Massachusetts  
SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
ONE BEACON STREET, 4TH FLOOR  
BOSTON, MASSACHUSETTS 02108  
WWW.SJCCOUNTYCLERK.COM

MAURA S. DOYLE  
CLERK

CASE INFO (617) 557-1100  
BAR INFO (617) 557-1050  
FACSIMILE (617) 557-1040

Luis Rivera  
MCI-Cedar Junction  
P.O. Box 100  
S. Walpole, MA 02071

ASSISTANT CLERKS

LILLIAN C. ANDRUSZKIEWICZ (617) 557-1184  
GEORGE E. SLYVA (617) 557-1185  
ERIC B. WETZEL (617) 557-1186  
FAX (617) 557-1033

December 14, 2004

RE: No. SJ-2004-0338

COMMONWEALTH  
vs.  
LUIS RIVERA

Hampden Superior Court  
No. HDCR1991-02247

NOTICE OF DOCKET ENTRY

You are hereby notified that on December 14, 2004, the  
following was entered on the docket of the above referenced case:

Memorandum and Order...."The defendant's petition is hereby  
DENIED." (Spina, J.)

  
Maura S. Doyle, Clerk

To: Luis Rivera  
Jane Davidson Montori, Assistant District Attorney  
Hampden Superior Court Dept.



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
No. SJ-2004-0338

SUPERIOR COURT DEPARTMENT  
HAMPDEN COUNTY  
Nos. HDCR1991-2247 to 2251

COMMONWEALTH

vs.

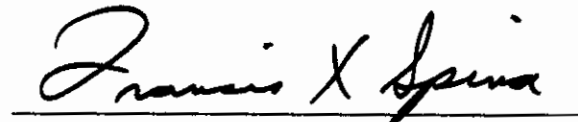
LUIS RIVERA

MEMORANDUM AND ORDER

The defendant, Luis Rivera, has filed a petition for leave to appeal under G. L. c. 278, § 33E, from the denial of his first motion for a new trial. All the arguments raised in the defendant's motion could have been raised earlier, and therefore are not "new and substantial" issues within the meaning of G. L. c. 278, § 33E. See *Commonwealth v. Ambers*, 397 Mass. 705, 708 (1986).

The defendant's petition is hereby DENIED.

By the Court,

A handwritten signature in black ink, reading "Francis X. Spina", written over a horizontal line.

Francis X. Spina  
Associate Justice

ENTERED: December 14, 2004

Hampden Division  
Superior Court Department  
William J. Martin Jr.  
Clerk/Magistrate

PAGE 2  
CLERK'S LOG

Case No. 91-2243 28

COMMONWEALTH V.

JOSE ANTONIO PACHECO, ALIAS

Date	Judge	Procedure	Clerk	Ct. Reporter
7-10-92	Sweeney	Status Report 10-30-92	ERSON	Tape
2-16-93	Moximaty	Re possible plea 2-18-93	ERSON	Torquella
2-18-93	Moximaty	Status Report 2-22-93	ERSON	Parker
2-22-93	Moximaty	Motion Hearings 4-14-93	ERSON	Santinaso
5/25/93	Spina	Cont'd @ 6/1/93 mat. hearing	Martin	Lion
6-1-93	Spina	Case ordered Dismissed by the court	ERSON	Freer
True copy.				
Attest:				
<div style="text-align: center;"> <u>William L. Eason</u>            Assistant Clerk         </div>				

Hampden Division  
Superior Court Department  
William J. Martin, Jr.  
Clerk/Magistrate

## CLERK'S LOG

Case No. **91 2243** 29

COMMONWEALTH v.

JOSE ANTONIO PACHECO, ALIAS

Assistant District Attorney

Attorney for Defendant

Date	Judge	Procedure	Clerk	Ct. Reporter
9-4-91	---	Order to Notify.		
9/6/91	Alberting	PLEA: P.N.G. BAIL: \$1,000,000 CB w/o prej.	Eason	Freer
		Date of: Pretrial Conference: 9/16/91		
9/16/91	Ford J.	Atty's Conference 9/24/91	Eason	Freer
10/1/91	Ford J.	Matter Heard	Martin	Beer
11-35-91	Ford	After a Review of	Eason	Sullivan
		Bail court sets Bail at		
		500,000.00 on this indictment		
9/2/92	Sweeney J	This case along with		
		all Co-defts is assigned	Eason	Freer
		to Judge Ford <sup>CHD</sup> 4/16/92		
		by order of the Court		
7/2/92	Ford J	Freer 30 waiver approved	Morgan	Loe
		But to 10/30/92 - Rel on		
		personal sureties of		
		\$75,000.00 Special		
		condition - deft. report		
		3 days weekly to Holyoke		
		Armory.		
7-6-92	Ford J	Bail Remains at 75,000 personal	Eason	Tape
		Surety But the 3 days weekly		
		Reporting To Holyoke Armory is		
		ordered vacated		

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT  
INDICTMENT NO. **91 2243** <sup>30</sup>

COMMONWEALTH

VS.

JOSE ANTONIO PACHECO  
WHO ALSO IS KNOWN AS CARLOS

---

INDICTMENT  
MURDER  
GENERAL LAWS CHAPTER 265, SECTION 1

---

At the SUPERIOR COURT, begun and holden at SPRINGFIELD, within and for the COUNTY of HAMPDEN, on the first Monday of September 1991. THE JURORS for the Commonwealth of Massachusetts on their oath present that:

JOSE ANTONIO PACHECO  
WHO ALSO IS KNOWN AS CARLOS

defendant herein, of HOLYOKE in the COUNTY of HAMPDEN, on or about August 24, 1991, at HOLYOKE in the COUNTY of HAMPDEN, did assault and beat Guillermo Santiago with intent to murder him, and by such assault and beating did kill and murder the said Guillermo Santiago.

A TRUE BILL

Guillermo Lopez  
Foreman of the Grand Jury

William M. Bennett  
District Attorney

---

RETURN

---

HAMPDEN, ss. On this 4<sup>th</sup> day of Sept, 1991, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST:

William L. Casore  
Assistant Clerk

07991

A true copy.

Attest:

William L. Casore  
Assistant Clerk

91 2244 31  
Case No. \_\_\_\_\_

Assistant District Attorney

Date	Judge	Procedure	Clerk	Ct. Reporter
9-4-91	Alberti, J	Order to Notify. PLEA: P.N.G. BAIL: Held w/o right to Bail w/o prej. Date of: Pretrial Conference:	Eason	Freer
11-25-91	Ford	After A Review of Bail the court sets Bail on this indictment at 500,000 c/s	Eason	Sullivan
1/2/92	Ford 2	See # 91-2243 Bail:	Dargrow	Faye
7-6-92	Ford	conditions the same -		
7-6-92	Ford	See # 91-2243 Bail conditions the same	Eason	Tape
6-1-93	SPIN H	Dismissed by order of the court	EASON	Freer
A true copy.				
Attest: <u>William J. Casore</u>				
Assistant Clerk				



COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT  
INDICTMENT NO.

32

91 2244

COMMONWEALTH

VS.

JOSE ANTONIO PACHECO  
WHO ALSO IS KNOWN AS CARLOS

---

INDICTMENT  
MURDER  
GENERAL LAWS CHAPTER 265, SECTION 1

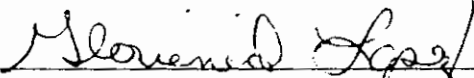
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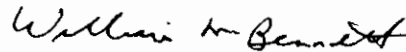
At the SUPERIOR COURT, begun and holden at SPRINGFIELD, within and for the COUNTY of HAMPDEN, on the first Monday of September 1991. THE JURORS for the Commonwealth of Massachusetts on their oath present that:

JOSE ANTONIO PACHECO  
WHO ALSO IS KNOWN AS CARLOS

defendant herein, of HOLYOKE in the COUNTY of HAMPDEN, on or about August 24, 1991, at HOLYOKE in the COUNTY of HAMPDEN, did assault and beat Angel L. Carcano with intent to murder him, and by such assault and beating did kill and murder the said Angel L. Carcano.

A TRUE BILL

  
Foreman of the Grand Jury

  
District Attorney

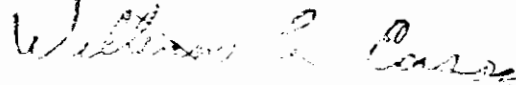
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RETURN

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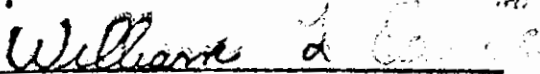
HAMPDEN, ss. On this 4<sup>th</sup> day of Sept, 1991, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST:

  
Assistant Clerk

A true copy. 07991

Attest:

  
Assistant Clerk



Case No. **91 2245**

33

Assistant District Attorney

**Attorney for Defendant**

[illegible]

HAMPDEN, ss.

SUPERIOR COURT  
INDICTMENT NO.

91 2245

COMMONWEALTH

VS.

34

JOSE ANTONIO PACHECO  
who also is known as CARLOSINDICTMENT  
CONSPIRACY TO MURDER  
GENERAL LAWS CHAPTER 274, SECTION 7 AND COMMON LAW

At the SUPERIOR COURT, begun and holden at SPRINGFIELD, within and for the COUNTY of HAMPDEN, on the first Monday of September 1991. THE JURORS for the Commonwealth of Massachusetts on their oath present that:

JOSE ANTONIO PACHECO  
who also is known as CARLOS

defendant herein, of Holyoke, in the County of Hampden, beginning at a time unknown to the grand jury, but at least during or about August 1991, and continuing thereafter until on or about August 24, 1991, the exact dates being unknown to the grand jury, at Holyoke within the County of Hampden, did knowingly and intentionally combine, conspire, confederate and agree with Luis Fernando Rivera, Jr., who also is known as The Kid, Raymond Rios Rebello, who also is known as Ray Ray, Luiz Hernandez, Iran Diaz, who also is known as Cholo, and with other persons whose identities presently are not known to the grand jury to commit an offense against the Commonwealth, namely to murder Guillermo Santiago, in violation of General Laws chapter 265, section 1.

All in violation of the Common Law and General Laws chapter 274, section 7.

A TRUE BILL

*Gloria L. Lopez*  
Foreman of the Grand Jury

*William P. Bennett*  
District Attorney

RETURN

HAMPDEN, ss. On this *4th* day of *Sept*, 1991, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST:

*William L. Casore*  
Assistant Clerk

08021

A true copy

Attest

*William L. Casore*  
Assistant Clerk

91 2246 35  
Case No. \_\_\_\_\_

JOSE ANTONIO PACHECO, ALIAS

Assistant District Attorney

**Attorney for Defendant**

[illegible]

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT  
INDICTMENT NO.

91 2246

COMMONWEALTH

VS.

36

JOSE ANTONIO PACHECO  
who also is known as CARLOS

INDICTMENT  
CONSPIRACY TO MURDER  
GENERAL LAWS CHAPTER 274, SECTION 7 AND COMMON LAW

At the SUPERIOR COURT, begun and holden at SPRINGFIELD,  
within and for the COUNTY of HAMPDEN, on the first Monday of  
September 1991. THE JURORS for the Commonwealth of  
Massachusetts on their oath present that:

JOSE ANTONIO PACHECO  
who also is known as CARLOS

defendant herein, of Holyoke, in the County of Hampden,  
beginning at a time unknown to the grand jury, but at least  
during or about August 1991, and continuing thereafter until on  
or about August 24, 1991, the exact dates being unknown to the  
grand jury, at Holyoke within the County of Hampden, did  
knowingly and intentionally combine, conspire, confederate and  
agree with Luis Fernando Rivera, Jr., who also is known as The  
Kid, Raymond Rios Rebello, who also is known as Ray Ray, Luiz  
Hernandez, Iran Diaz, who also is known as Cholo, and with  
other persons whose identities presently are not known to the  
grand jury to commit an offense against the Commonwealth,  
namely to murder Angel L. Carcano, in violation of General Laws  
chapter 265, section 1.

All in violation of the Common Law and General Laws  
chapter 274, section 7.

A TRUE BILL

Guillermo Lopez  
Foreman of the Grand Jury

William B. Bennett  
District Attorney

RETURN

HAMPDEN, ss. On this 4<sup>th</sup> day of Sept, 1991,  
this indictment was returned and presented to said Superior  
Court by the Grand Jury, and ordered to be filed and filed.

ATTEST:

William B. Bennett  
Assistant Clerk

08021

true copy.

Attest:

William B. Bennett  
Assistant Clerk